

applicable law. *Barilla v. Ervin*, 886 F.2d 1514, 1518 (9th Cir. 1989) (*overruled on other grounds by Simpson v. Lear Astronics Corp.*, 77 F.3d 1170, 1174 (9th Cir.1996)).

Here, Magistrate Judge Ostby correctly concluded that Plaintiff was not prejudiced by the failure to have access to a law library because he was provided with a lawyer. *Bounds v. Smith*, 430 U.S. 817, 828 (1977) (concluding that the fundamental constitutional right of access to the courts requires prison authorities to assist inmates in the preparation and filing of meaningful legal papers by providing prisoners with adequate law libraries *or* adequate assistance from persons trained in the law).

Further, dismissal is also required by Plaintiffs' failure to notify the Court of his current address. Local Rule of Procedure 5.4(a) requires pro se litigants to "promptly file with the Court and serve upon all opposing parties a Notice of Change of Address specifying the new address." Local Rule 5.4(b) provides the Court may dismiss complaints without prejudice when mail directed to a pro se party is returned to the Court as not deliverable. Here, the June 5, 2008 Findings and Recommendations was sent to Plaintiffs address of record but was returned undeliverable on June 16, 2008. *Doc. 13*.


After a de novo review of the law, it is clear Magistrate Judge Ostby's Findings and Recommendation (*Doc. 12*) are well-grounded in law and fact and are adopted in their entirety.

Accordingly **IT IS HEREBY ORDERED** that Plaintiff's Complaint (*Doc. #2*) is **DISMISSED**.

IT IS FURTHER ORDERED that the filing of this action counts as one strike against Plaintiff pursuant to 28 U.S.C. § 1915(g) and that any appeal of this order should be taken in bad faith pursuant to Fed.R.App.P. 24(3)(A).

The Clerk of Court shall notify the parties of the making of this Order and close this case accordingly.

DATED this 3rd day of July, 2008.


RICHARD F. CEBULL
UNITED STATES DISTRICT JUDGE